

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RICARDO NATIVIDAD,	:	Honorable John M. Young
	:	
Plaintiff	:	
	:	
v.	:	No. 21-4754
	:	
JOHN WETZEL, et al.,	:	
	:	
Defendants	:	Filed Via Electronic Case Filing

JOINT STATUS REPORT

Pursuant to this Court's order of March 27, 2023, the parties submit the following joint status report addressing the particular inquiries identified in the order, and aver as follows:

1. On March 27, 2023, this Court issued an order directing the submission of a joint status report from the parties within 20 days. See Doc. 25.
2. The joint status report is specifically required to include information regarding compliance with pre-existing scheduling orders, the status of fact and expert discovery, the potential for dispositive motions to be filed, settlement efforts, and the earliest date the case could be ready for trial. Id.
3. This particular case, along with dozens of others, was marked as related and consolidated to address common issues of law and fact prior to trial; the consolidated cases were assigned to Judge McHugh and a lead case was identified. See Doc. 19; see also Busanet v. Wetzel, et al., 21-4286 (EDPA).

4. After the issuance of the status report order, Judge McHugh's Chambers provided the following response to counsel when inquiring about the impact upon the consolidation: "Pursuant to the order of consolidation entered by Chief Judge Sanchez, discovery in this action is stayed pending resolution of common issues of law in fact being addressed by Judge McHugh in Busanet v. Wetzel, et al., 21-4286, which is fully briefed and awaiting argument."

Compliance With any Existing Scheduling Order

5. A review of the docket in this matter indicates that no such scheduling order exists, likely because all consolidated cases have remained suspended while common issues of law and fact are resolved in the lead case.

Status of Fact and Expert Discovery

6. No fact or expert discovery has occurred in any of the consolidated cases, including this one, because discovery in those matters was stayed pending the resolution of the common issues of law and fact being addressed in the lead case.

Filing of Dispositive Motions

7. Defendants do not anticipate filing a dispositive motion as a response to the complaint in this matter, because such a motion has already been filed in the lead case, where it remains pending. However, if Defendants' pending dispositive motion is denied, or only partially granted, and the consolidation is eventually broken, the Defendants would likely file a motion for summary judgment in all of the individual capital lawsuits.

Status of Settlement Efforts

8. No settlement discussions have occurred in this case, in the lead case, or in any of the other consolidated capital lawsuits.

Earliest Date Ready for Trial

9. It is likely that this case would not be ready for trial until late 2024, at the earliest. Several factors impact this timeframe. First, if the Defendants' pending dispositive motion is resolved entirely in their favor in the lead case no trial will be necessary, and all consolidated capital lawsuits will be dismissed. However, if Defendants are not successful in those efforts, it is likely that a direct appeal to the Third Circuit addressing the appropriateness of qualified immunity in the consolidate capital lawsuits will occur. Such an appeal will necessarily further delay the advancement of the consolidated capital lawsuits while the Third Circuit resolves the central question inherent to all of these cases.

Respectfully submitted,

Office of General Counsel



Joseph G. Fulginiti, Assistant Counsel
Attorney ID No.: 208039
Pennsylvania Department of Corrections
1920 Technology Parkway
Mechanicsburg, PA 17050
Phone No.: (717) 728-7763
Office Cell: (717) 514-4912
E-mail: josfulgini@pa.gov



STEPHEN T. O'HANLON, ESQUIRE

O'Hanlon Schwartz, P.C.
BY: Stephen T. O'Hanlon, Esquire
PA Bar # 208428
Attorney for Plaintiff
2 Penn Center, Suite 1410
1500 John F. Kennedy Boulevard
Philadelphia, PA 19102
Tel: (267) 546-9066
Fax: (215) 563-6617
steve@ohanlonschwartz.com

Date: April 12, 2023

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was filed utilizing the Court's Electronic Case Filing system, and was thus made available to all counsel of record.



Joseph G. Fulginiti, Assistant Counsel
Attorney ID No.: 208039
Pennsylvania Department of Corrections
1920 Technology Parkway
Mechanicsburg, PA 17050
Phone No.: (717) 728-7763
Office Cell: (717) 514-4912
E-mail: josfulgini@pa.gov

Date: April 12, 2023